

NOTE TO OFFICER: The officer should review and follow the instructions on Side Two of this form.

ATTACH TEST RECORD TICKET HERE

# STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice  
District Court Division

NOTE: A "commercial motor vehicle" is as defined in G.S. 20-4.01(3d).

## IN THE MATTER OF

## AFFIDAVIT AND REVOCATION REPORT OF

LAW ENFORCEMENT OFFICER

CHEMICAL ANALYST

The charged offense is impaired supervision or instruction under G.S. 20-12.1. Accordingly, substitute "supervisor/instructor" wherever "driver" appears below.

G.S. 20-16.2, 20-16.5, 20-17.8, 20-19(c3), 20-139.1

Name		State		Zip		Vehicle Type		CMV	Haz. Mat.	Citation No.
Address		State		Zip		Vehicle Type		CMV	Haz. Mat.	Citation No.
Race	Sex	Date Of Birth	Drivers License No.	State	Vehicle Type	CMV	Haz. Mat.	Citation No.		

The undersigned being first duly sworn says:

1. I am a law enforcement officer. On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ (a.)(p.)m., a law enforcement officer had reasonable grounds to believe the above named person, hereinafter referred to as driver, operated a vehicle ( commercial motor vehicle) in the above named county upon \_\_\_\_\_ (Give Street, Highway, Or Public Vehicular Area) while committing an implied-consent offense in that \_\_\_\_\_

(List Sufficient Facts To Establish Probable Cause)

- 2. The driver has a drivers license restriction:  alcohol concentration.  ignition interlock.  conditional restoration (Restr: \*9).
- 3. The driver violated a drivers license restriction by:  refusing to be transported for testing.  not having an operable ignition interlock on the vehicle being driven.  failing to personally activate the ignition interlock on the vehicle being driven.  exceeding the driver's alcohol concentration limitation.  refusing a chemical analysis (if refusal, also complete items no. 14 and 15 below, as appropriate for this case).
- 4. The driver was charged with the implied-consent offense of:  G.S. 20-138.1.  Other: \_\_\_\_\_
- 4a. The driver has one or more pending offenses in the following county(ies) \_\_\_\_\_ for which the drivers license had been or is revoked under G.S. 20-16.5.
- 5. After the driver was charged, I took the driver before \_\_\_\_\_, a chemical analyst authorized to administer a test of the driver's breath.
- 6. I am a chemical analyst and possess a current permit issued by the Department of Health and Human Services authorizing me to conduct chemical analyses of the breath utilizing the Intox EC/IR II.
- 7. I informed the driver orally and also gave notice in writing of the rights specified in G.S. 20-16.2(a). I completed informing the driver of the rights as indicated on the attached DHHS 4081.
- 8. I began observing the driver for the purpose of complying with the observation period requirements for a breath analysis in accordance with the methods/rules approved by the Department of Health and Human Services at \_\_\_\_\_ (a.)(p.)m. on the \_\_\_\_\_ day of \_\_\_\_\_.
- 9. On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ (a.)(p.)m., I requested the driver to submit to a chemical analysis of his/her breath or blood or urine.
- 10. The driver was unconscious or otherwise incapable of refusal and therefore the notification of rights and request to submit to a chemical analysis were not made. I directed the taking of a blood sample by a person qualified under G.S. 20-139.1 based on the (check one)  AOC-CR-155 search warrant issued and executed in this case.  totality of the circumstances, which demonstrated an exigency that justified the taking of the sample without first obtaining a search warrant.
- 11. The driver submitted to a chemical analysis of his/her breath. I administered the chemical analysis to the driver in accordance with the methods/rules approved by the Department of Health and Human Services using an Intox EC/IR II, and it printed the results of the driver's chemical analysis on the attached test record, DHHS 4082, which is made part of this Affidavit. The most recent preventive maintenance was performed on this Intox EC/IR II on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, as shown on the preventive maintenance record. I provided the driver with a copy of the attached test record before any trial or proceeding in which the results of the chemical analysis may be used.
- 12. The chemical analysis of the driver's breath indicated an alcohol concentration of 0.15 or more.
- 13. The driver consented to the obtaining of a sample of his/her blood or urine for a chemical analysis, which was collected as indicated on the attached DHHS 4081.
- 14. The driver willfully refused to submit to a chemical analysis as indicated on the attached  DHHS 4082.  DHHS 4081.  The willful refusal occurred in an implied-consent offense involving death or critical injury to another person.
- 15. After the driver's willful refusal, a blood sample was obtained based on the (check one)  AOC-CR-155 search warrant issued and executed in this case.  totality of the circumstances, which demonstrated an exigency that justified the taking of the sample without first obtaining a search warrant.

### SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Signature Of Chemical Analyst/Law Enforcement Officer \_\_\_\_\_ DHHS Permit No. \_\_\_\_\_

Date \_\_\_\_\_ Signature Of Official Authorized To Administer Oaths \_\_\_\_\_ Print Name Of Chemical Analyst/Law Enforcement Officer \_\_\_\_\_

Magistrate  Deputy CSC  Assistant CSC  Clerk Of Superior Court  
 Notary Seal Date My Commission Expires \_\_\_\_\_ County Where Notarized \_\_\_\_\_ Agency Name \_\_\_\_\_

## NOTES TO LAW ENFORCEMENT OFFICER/CHEMICAL ANALYST

### **NOTE TO LAW ENFORCEMENT OFFICER WHO IS NOT GOING TO** *administer breath test or read the implied-consent rights:*

1. Complete the identifying information at the top,
2. Check the "Law Enforcement Officer" block under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 1-5 (and if the driver is unconscious or incapable of refusing so that the implied-consent rights need not be read, also review and check as appropriate paragraph 10), and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

### **NOTE TO LAW ENFORCEMENT OFFICER WHO CHARGES DRIVER AND IS CHEMICAL ANALYST** *who administers the breath test or reads the implied-consent rights for a blood test:*

1. Complete the identifying information at the top,
2. Check both the "Law Enforcement Officer" and "Chemical Analyst" blocks under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 1-15, and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

### **NOTE TO CHEMICAL ANALYST WHO IS NOT THE CHARGING OFFICER:**

1. Complete the identifying information at the top,
2. Check the "Chemical Analyst" block under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 6-15, and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

## INSTRUCTIONS

1. This form should be used in District Court to prove alcohol concentration in implied-consent criminal cases.
2. This form should be used before the Magistrate for the pretrial civil revocation (CVR) when the driver is charged with DWI or another implied-consent offense and the driver
  - a. has an alcohol concentration of 0.08 or more;
  - b. has an alcohol concentration of 0.04 or more and was operating a commercial motor vehicle;
  - c. is under age 21 and has an alcohol concentration of 0.01 or more; or
  - d. refuses the breath test and/or a blood or urine test.
3. This form should be used to notify DMV of (i) an alcohol concentration of 0.15 or more or (ii) a refusal to submit to a breath test and/or a blood or urine test.
4. This form should be used to notify DMV of violations of the following drivers license restrictions<sup>+</sup>:
  - a. \*9= the driver has a Conditional Restoration of his or her drivers license
  - b. 19= alcohol concentration (A/C) of 0.04
  - c. 20= A/C 0.04+ignition interlock
  - d. 21= A/C 0.00
  - e. 22= A/C 0.00+ignition interlock
  - f. 23= ignition interlock only

+ When a driver has violated a restriction and paragraphs 2 and 3 on Side One are completed, ALL sections in these paragraphs that apply must be checked. For example, if the driver had a restriction 20 and violated both the alcohol concentration and the ignition interlock provisions, both the "alcohol concentration" and the "ignition interlock" blocks should be checked in paragraph 2. The same applies to paragraph 3.
5. File the original and copies of this form, with a copy of the test record ticket attached, as follows:
  - a. Original - To the Magistrate for the pretrial civil revocation (CVR).
  - b. Second copy - To the Court for the criminal case.
  - c. Yellow copy - To DMV for violation of any alcohol or ignition interlock restriction on drivers license, alcohol concentration of 0.15 or more, or for refusal to submit to a breath test and/or a blood or urine test. DMV's address is: DMV, Information Processing Services, 3120 Mail Service Center, Raleigh, NC 27699-3120.
  - d. Pink copy - To the Law Enforcement Officer/Chemical Analyst.
  - e. Green copy - To the driver.